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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/849,885

05/21/2004

Roy D. Clark

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37833

7590

10/27/2005

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EXAMINER

DUNWIDDIE, MEGHAN K

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 10/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

11-A

<b>Office Action Summary</b>	<b>Application No.</b> 10/849,885	<b>Applicant(s)</b> CLARK, ROY D.	
	<b>Examiner</b> Meghan K. Dunwiddie	<b>Art Unit</b> 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4 and 5 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 May 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>05/21/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

### **DETAILED ACTION**

This Office Action is a Non-Final Rejection in response to the application filed May 21, 2004 by **Clark**.

#### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on May 21, 2004 is in compliance with the provisions of 37 CFR 1.97, accordingly, has been considered by the examiner.

#### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "12" has been used to designate both "bottom end" (page 7 line 11) and "elongated tubular body" (page 8 lines 1-2).

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "V-shape formed by said moldings" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate

prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

5. Claim 4 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 4 is objected to because it is dependent upon Claim 4. Claim 4, as well as can be understood, is dependent on Claim1 instead of Claim 4.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Grumbeck** (US 4035633) in view of **York** (US 1538152).

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8. Regarding Claim 1, **Grumbeck** shows a relaxation lamp [Figure 1: (10)]

comprising:

- A plurality of thin slats made from wood [Figure 2: (14)] and coated with an oil-based polyurethane coating;
- A plurality of elongated moldings [Figure 2: (18)] having longitudinally extending grooves defined therein, the moldings [Figure 2: (18)] having a thickness great than the slats [See column 2 lines 14-17 in reference to Figure 2: (14) and (18)], the slats [Figure 2: (14)] being glued lengthwise between adjacent moldings [Figure 2: (18)] to define an elongated tubular body [See column 1 lines 32-33 in reference to Figure 1] having a top end and a bottom end [See Figure 1] and a substantially polygonal cross section [See Figure 1];
- A bottom wall [] attached to the molding [Figure 2: (18)] at the bottom end of the tubular body [See column2 lines 32-33 in reference to Figure 1].

9. **Grumbeck** does not show:

- A plurality of pegs extending inwardly into the tubular body adjacent the top end, the pegs being attached to the moldings;
- A light fixture disposed on the bottom wall of the tubular body;
- And a cover removably disposed at the top end of the tubular body, the cover resting on the pegs;
- Whereby the light fixture radiates a low intensity light having a soothing color in a darkened room to provide an atmosphere of serenity.

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10. **York** teaches:

- A plurality of pegs [Figure 3: (9)] extending inwardly into the tubular body [See column1 lines 32-33 in reference to Figure 1] adjacent the top end [See Figure 1], the pegs [Figure 3: (9)] being attached to the moldings [Figure 2: (18)];
- A light fixture [See page 1 line 95] disposed on the bottom wall of the body;
- And a cover [Figure 2: (8)] removably disposed at the top end of the tubular body [See Figure 2], the cover resting on the pegs [Figure 3: (9)];
- Whereby the light fixture [See page 1 line 95] radiates a low intensity light having a soothing color in a darkened room to provide an atmosphere of serenity [See page 1 lines 16-21].

11. It would have been obvious for one of ordinary skill in the art, at the time of the invention to provide a cover and means for attaching the cover as taught by **York** to the wooden relaxation lamp of **Grumbeck** for the purpose and advantage of providing subdued lighting.

12. Regarding Claim 2, **Grumbeck** shows the slats are made from wood, while Claim 2 recites the slats are made from pitch pinewood.

13. It is well known to make aesthetic design changes when desired (See MPEP 2144.04; *In re Seid*, 161 F.2d 229. 73 USPQ 431 (CCPA 1947)).

14. It would have been obvious for one of ordinary skill in the art, at the time of the invention to produce the slats and moldings of **Grumbeck** out of pitch pinewood since changes in the type of wood could create a more aesthetically pleasing relaxation lamp.

15. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Grumbeck** (4035633) in view of **York et al.** (US 1538152) and **Rice et al.** (US 3614835).

16. Regarding Claim 4, **Grumbeck** shows:

- The elongated tubular body [See column 1 lines 32-33 in reference to Figure 1].

17. **Grumbeck** does not show:

- The elongated tubular body is formed from twelve slats and twelve moldings, the body having a substantially dodecagonal shape in section.

18. **York** teaches:

- The elongated tubular body is formed from twelve slats and twelve moldings [See page 2 lines 59-63].

19. It would have been obvious for one of ordinary skill in the art, at the time of the invention to create the relaxation lamp of **Grumbeck** with a varying number of wooden

slats and moldings as taught in **York** for the purpose and advantage of having a variety of shapes and sizes of the relaxation lamp.

20. **Grumbeck** and **York** do not show:

- The body having a substantially dodecagonal shape in section.

21. However, **Rice** et al. teaches:

- The body having a substantially dodecagonal shape in section [See column 2 lines 36-39 and column 3 lines 21-32 in reference to Figure 9].

22. It would have been obvious for one of ordinary skill in the art, at the time of the invention to shape the relaxation lamp with multiple wooden slats and moldings of **Grumbeck** and **York** into a dodecagonal shape as taught in **Rice** for the purpose and advantage of having a more intricate and aesthetically pleasing lamp.

23. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Grumbeck** (US 4035633) in view of **Tsao** (US 2004/0085763).

24. Regarding Claim 5, **Grumbeck** shows the claimed invention as cited above, but does not specifically teach the cover of the lamp having a handle attached.



25. **Tsao** teaches:

- A handle [Figure 1: (22)] attached to said cover [Figure 1: (20)].

26. It would have been obvious for one of ordinary skill in the art, at the time of the invention to attached a handle to the cover as taught in **Tsao** to the relaxation lamp of **Grumbeck** for the purpose and advantage of having the option of attaching or detaching the cover to the lamp.

#### ***Allowable Subject Matter***

27. Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

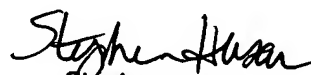
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meghan K. Dunwiddie whose telephone number is (571) 272-8543. The examiner can normally be reached on Monday through Friday 8 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MKD

  
Stephen Husar  
Primary Examiner